

REMARKS

Please reconsider the application in view of the above amendments and the following remarks. Applicants thank the Examiner for accepting the drawings and oath and declaration filed on March 12, 2004, for indicating that claims 5 and 6 contain allowable subject matter, for the courtesies extended during the Examiner Interview conducted on October 24, 2008, and for carefully considering this application.

Examiner Interview

An Examiner Interview was conducted on October 24, 2008. Applicants have reviewed the interview summary mailed on October 29, 2008 and agree with its comments. As stated in the interview summary, the Examiner indicated that the claim amendments presented during the Examiner Interview (which are consistent with the claim amendments in the instant response) appear to overcome the 35 U.S.C. § 103 rejection.

Disposition of Claims

Claims 1-22 are pending in this application. Claims 1, 10, 21, and 22 are independent. The remaining claims depend, directly or indirectly, from claims 1 and 10.

Amendments to the Claims

Claims 1, 3, 5, 8, 10, 11, 14, 15, 18, 19, 21, and 22 are amended by way of this reply. Specifically, claims 1, 10, 21, and 22 are amended to clarify the invention. Claims 3, 5, 8, 11, 14, 15, 18, and 19 are amended for consistency with the amendments to claims 1 and 10. No new

subject matter is added by way of these amendments as support may be found, for example, in paragraphs [0025]-[0030], [0034], and [0035] and in Figure 2 of the application as filed.

Amendments to the Abstract

The abstract is amended by way of this reply to remove the title and document number on the page of the abstract, and to rephrase the abstract in narrative form. No new subject matter is added by way of this amendment as support may be found, for example, in the abstract as originally filed.

Objection to the Specification

The Abstract of the Specification stands objected to for having a title and a document number on the same page as the abstract and for being written in non-narrative form. As discussed above, the title and document number are removed by way of this reply. Further, the abstract is amended by way of this reply to be written in narrative form. Accordingly, withdrawal of this objection is respectfully requested.

Rejection under 35 U.S.C. § 112

Claim 3 stands rejected under 35 U.S.C. § 112 for failing to provide antecedent basis for “the configuration file”. Claim 3 is amended by way of this reply to depend from claim 2, which recites “a configuration file”. Therefore, “the configuration file” in claim 3 now has proper antecedent basis. Accordingly, withdrawal of this rejection is respectfully requested.

Rejection under 35 U.S.C. § 101

Under 35 U.S.C. § 101, “Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.”

Claims 10-20

Claims 10-20 stand rejected under 35 U.S.C. § 101 for being directed to non-statutory subject matter. Claim 10 is amended by way of this reply to recite that the system includes a processor on which the first kernel module executes. Therefore, amended claim 10 is directed to a machine and, thus, directed to statutory subject matter. Claims 11-20 are directed to statutory subject matter for at least the same reasons. Withdrawal of this rejection is respectfully requested.

Claim 22

Claim 22 stands rejected under 35 U.S.C. § 101 for being directed to non-statutory subject matter. Claim 22 is amended by way of this reply to recite that nodes in the network system include a processor. Therefore, amended claim 22 is directed to a machine and, thus, directed to statutory subject matter. Withdrawal of this rejection is respectfully requested.

Rejection under 35 U.S.C. § 103(a)

Claims 1-4 and 7-22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,769,117 (“Moore”) in view of U.S. Pat. No. 6,272,519 (“Shearer”). To the extent that this rejection applies to the amended claims, this rejection is respectfully traversed.

Amended independent claim 1 is directed to loading a kernel module when dynamic dependencies exist between the kernel module and a second kernel module. *See, e.g.*, paragraphs [0025]-[0030] of the Specification. Specifically, a first kernel module is loaded into the kernel. *Id.* The first kernel module includes a static dependency list. *Id.* When the static dependency list is reviewed, a hook is triggered to obtain module information associated with the first kernel module. *Id.* Using module information, a dynamic dependency list is searched to determine the presence of a dependency between the first kernel module and a second kernel module. *Id.* When a dependency exists, the static dependency list is updated with the dynamic dependency. *Id.* Thus, when one kernel module is loaded, a dependent kernel module may also be loaded even though the dependent kernel module is only identified as being dependent after the first kernel module is compiled. *Id.*

Turning to the rejection, MPEP §2143 states that “[t]he key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious.” The Supreme Court in *KSR International Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1739, 75 U.S.L.W. 4289 (2007) noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit. *See*, MPEP §2143. The analysis presented by the Examiner to support the rejection of the claims under 35 U.S.C. § 103 in the Office Action dated September 19, 2008 indicates that the Examiner found no differences between the cited prior art and the claims besides a lack of the actual combination of the elements in a single prior art reference, i.e., that the Examiner is relying solely on the teachings of the prior art. *See, e.g.*, MPEP § 2143(A). Applicants respectfully assert that all of the elements of the amended claims are not found in the cited prior art.

As an initial point, Applicants note that, as agreed to by the Examiner during the Examiner Interview on October 24, 2008 and noted in the Interview Summary mailed October 29, 2008, the amended claims overcome the prior art.

Specifically, amended independent claim 1 requires, in part, that the dynamic dependency list is searched to determine the presence of a dynamic dependency between the first kernel module and a second kernel module using the module information. Amended independent claims 10, 21, and 22 include a similar limitation. Applicants respectfully assert that Moore and Shearer fail to teach or suggest the aforementioned limitation.

In particular, Moore is directed to the insertion of hooks in a kernel in order to add code. *See, e.g., Moore, Abstract.* However, Moore is completely silent with respect to dependencies between kernel modules. Because Moore is silent with respect to dependencies between kernel modules, Moore cannot be used to teach or suggest that the dynamic dependency list is searched for a dynamic dependency between the first kernel module and a second kernel module using the module information as required by the amended claims.

Moreover, Shearer fails to teach or suggest that which Moore lacks. Specifically, Shearer is directed to a static-to-dynamic array conversion. *See, e.g., Shearer, Abstract.* Like Moore, Shearer is also silent with respect to dependencies between kernel modules. Thus, Shearer also cannot be used to teach or suggest that the dynamic dependency list is searched for a dynamic dependency between the first kernel module and a second kernel module using the module information as required by the amended claims.

In view of the above, Moore and Shearer fail to teach or suggest all of the limitations of independent claims 1, 10, 21, and 22. Dependent claims 2-4, 7-9, and 11-20, which depend,

directly or indirectly, from claims 1 or 10 are patentable over Moore and Shearer for at least the same reasons. Withdrawal of this rejection is respectfully requested.

Conclusion

Applicants believe this reply is fully responsive to all outstanding issues and places this application in condition for allowance. If this belief is incorrect, or other issues arise, the Examiner is encouraged to contact the undersigned or his associates at the telephone number listed below. Please apply any charges not covered, or any credits, to Deposit Account 50-0591 (Reference Number 03226/363001; SUN040180).

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Respectfully submitted,

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